REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 35-40, 42-45, 49-56 and 58-63 are pending.

Claims 35-63 were examined. Claims 35-38, 49, 51, 54 and 58-61 were rejected. Claims 39-48, 50, 53, 55, 57, 62 and 63 were objected to.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

No new matter has been added.

The Office Action

In the Official Action of March 27, 2006, claims 35-38 and 49 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-9 and 16 of U.S. Patent No. 6,283,912 in view of Hancock, U.S. Patent No. 6,331,157. The Examiner indicated that although the patented claims do not include a drive member whereby the rails are moveable relative to one another, that Hancock shows a retractor system comprising a retractor blade 52 attached to a rail 24, and that a second rail is provided and the rails are movable relative to one another by a drive member 22. The Examiner asserted that it would have been obvious to provide the claimed system with a second rail and a drive member to move the rails relative to one another, as taught by Hancock. Although Applicants do not necessarily agree with this ground of rejection and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 35-38 and 49 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6-9 and 16 of U.S. Patent No. 6,283,912 in view of Hancock, U.S. Patent No. 6,331,157, as being moot.

Claims 35 and 36 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-18 of U.S. Patent No. 6,283,912 in view of Hancock, U.S. Patent No. 6,331,157. The Examiner indicated that although the patented claims do not include a drive member whereby the rails are moveable relative to one another, that Hancock shows a retractor system comprising a retractor blade 52 attached to a rail 24, and that a second rail is provided and the rails are movable relative to one another by a drive member 22. The Examiner asserted that it would

have been obvious to provide the claimed system with a second rail and a drive member to move the rails relative to one another, as taught by Hancock. Although Applicants do not necessarily agree with this ground of rejection and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 35-38 and 49 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 16-18 of U.S. Patent No. 6,283,912 in view of Hancock, U.S. Patent No. 6,331,157, as being moot.

Claims 51 and 52 were rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6-10 of U.S. Patent No. 6,283,912. The Examiner indicated that although the conflicting claims are not identical, that they are not patentably distinct from each other because the subject matter of the instant claims is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, and that the patent claims are in effect a "species" of the "generic" invention of the application claims. Although Applicants do not necessarily agree with this ground of rejection and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 51 and 52 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6-10 of U.S. Patent No. 6,283,912, as being moot.

Claims 54 and 56 were rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6-10 of U.S. Patent No. 6,283,912. The Examiner indicated that although the conflicting claims are not identical, that they are not patentably distinct from each other because the subject matter of the instant claims is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, and that the patent claims are in effect a "species" of the "generic" invention of the application claims. Although Applicants do not necessarily agree with this ground of rejection and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 54 and 56 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6-10 of U.S. Patent No. 6,283,912, as being moot.

Claims 58-61 were rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6,7,11,10 and 12 of U.S. Patent No. 6,283,912. The

Examiner indicated that although the conflicting claims are not identical, that they are not patentably distinct from each other because the subject matter of the instant claims is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, and that the patent claims are in effect a "species" of the "generic" invention of the application claims. Although Applicants do not necessarily agree with this ground of rejection and thus do not acquiesce thereto, Applicants are submitting herewith a Terminal Disclaimer in order to advance the prosecution of the present application. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 58-61 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 6,7,11,10 and 12 of U.S. Patent No. 6,283,912, as being moot.

Applicants wish to extend their thanks to the Examiner for the indicated allowability of the subject matter contained within claims 39-40 (claim 41 having been canceled without prejudice) 42-45 (claims 46-48 having been canceled without prejudice), 50, 53, 55, (claim 57 having been canceled without prejudice) 62 and 63.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-010CON2.

Respectfully submitted,

LAW OFFICE OF ALAN W. CANNON

Date: 6/27/06

By: _____

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